

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Raymond Edmonds, #304228,)	
)	C/A No. 8:08-cv-1351-GRA
Petitioner,)	
)	
v.)	ORDER
)	(Written Opinion)
Warden Lee Correctional Institution,)	
)	
Respondent.)	
_____)	

This matter comes before the Court for a review of the magistrate's Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), and Local Rule 73.02(B)(2)(c), D.S.C., filed on April 8, 2009. The plaintiff originally brought this habeas corpus petition pursuant to 28 U.S.C. § 2254 on April 3, 2008. The respondent filed a Motion for Summary Judgment on September 19, 2008. After receiving an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) issued on September 25, 2008, the petitioner filed a response on October 28, 2008. The petitioner filed a motion to stay on March 24, 2009. The respondent opposes the motion. The magistrate recommends granting the petitioner's motion to stay and dismissing the petition without prejudice. For the reasons stated herein, this Court adopts the magistrate's Report and Recommendation in its entirety.

Petitioner brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those

drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The magistrate makes only a recommendation to this Court. The recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections, this Court need not give a detailed explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th Cir. 1983). The petitioner did not file any objections.

After reviewing the magistrate's Report and Recommendation, the plaintiff's motion, and the relevant case law, this Court finds that the magistrate applied sound legal principles to the facts of this case in arriving at his recommendation. Therefore, this Court adopts the magistrate's Report and Recommendation in its entirety.

IT IS THEREFORE ORDERED THAT the Petitioner's Motion for Abeyance be GRANTED.

IT IS FURTHER ORDERED THAT the habeas petition be DISMISSED without prejudice to allow the petitioner to exhaust his remedies in his state PCR application. The Respondent's Motion for Summary Judgement and the Petitioner's Motion for an Extension are DENIED as moot.

IT IS SO ORDERED.



G. Ross Anderson, Jr.
Senior United States District Judge

May 11, 2009
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Plaintiff has the right to appeal this Order within thirty (30) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal.**